



Fast Track Proposed Regulation Agency Background Document

Agency name	Virginia Department of Agriculture and Consumer Services
Virginia Administrative Code (VAC) citation	2VAC20-40
Regulation title	Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Virginia Pesticide Control Act
Action title	Amending 2VAC20-40 based on recommendations of the Attorney General's Government and Regulatory Reform Task Force
Date this document prepared	January 18, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The proposed amendment to the regulation will allow requested records to be submitted electronically.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On January 17, 2008, the Virginia Pesticide Control Board adopted the proposed amendments to the Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Virginia Pesticide Control Act.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Sections 3.1-249.30, 3.1-249.46, 3.1-249.49, and 3.1-249.50 of the Code of Virginia, as amended, authorize the Virginia Pesticide Control Board to amend this regulation.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The proposed amendment will allow licensed pesticide businesses to submit requested records to the agency through electronic means, providing them with greater flexibility in the method by which records are submitted.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The proposed amendment will allow licensed pesticide businesses to submit requested records to the agency through electronic means, providing them with greater flexibility in the method by which records are submitted. It will not create any additional burden on the businesses. The proposed change is at the request of the Office of the Attorney General and is non-controversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

There appears to be no substantive change to the existing section, since the existing regulation did not specify any particular means by which records were required to be submitted or made available for inspection.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The proposed change makes it clear that licensed pesticides businesses may submit requested records to the agency through electronic means, providing them with greater flexibility in the method by which records are submitted. It will not create any additional burden on the businesses. The proposed change is at the request of the Office of the Attorney General and should provide no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements or requirements that exceed applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No localities will be particularly affected by this proposed amendment.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum:

1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The proposed change makes it clear that licensed pesticide businesses may submit requested records to the agency through electronic means, providing them with greater flexibility in the method by which records are submitted. It will not create any additional burden on the businesses. The proposed change is at the request of the Office of the Attorney General and should provide no disadvantages to licensed pesticide businesses, virtually all of which are small businesses.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>The proposed amendment will not result in any cost to the state, since the agency already had the option to accept the electronic submission of records, and the amendment does not mandate that the agency create a form for the acceptance of electronic data.</p>
<p>Projected cost of the regulation on localities</p>	<p>The proposed amendments will not result in any costs to localities, since localities are not required to be licensed pesticide businesses.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>Licensed pesticide businesses operating in Virginia will be affected by the proposed amendment.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Currently 2,476 businesses are licensed to operate as pesticide businesses in Virginia. Virtually all of these would be considered small businesses under the definition at left.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>The proposed amendment imposes no new requirements but provides licensed businesses with alternative means of records submission. Therefore, no additional costs would be associated with the proposed amendment, and the affected businesses may achieve a cost savings through this additional flexibility, if they already maintain their records in electronic form.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The proposed change makes it clear that licensed pesticide businesses may submit requested records to the agency through electronic means, providing them with greater flexibility in the method by which records are submitted. It will not create any additional burden on the businesses. The proposed change is at the request of the Office of the Attorney General and should provide no disadvantages to licensed pesticide businesses, virtually all of which are small businesses. They will not be required to change the method by which they may have submitted records in the past, but may take advantage of additional options.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed amendment will have no impact upon families.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
2VAC20-40-50		Provides that requested records be made available for inspection by the commissioner or his designee, or, if not readily available, be submitted to the commissioner	Provides the option for requested records to be submitted electronically in a manner specified by VDACS, including, but not limited to, electronic mail or by completing any forms provided on line by VDACS